

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

SUPERIOR COURT  
COMMERCIAL DIVISION

(Sitting as a court designated pursuant to the  
*Companies' Creditors' Arrangement Act*,  
R.S.C. 1985, c. C-36)

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N°: 500-11-047563-149

**IN THE MATTER OF THE COMPROMISE OR  
ARRANGEMENT OF:**

**GRADEK ENERGY INC.**

**and**

**GRADEK ENERGY CANADA INC.**

**Petitioners**

**and**

**R H S T DEVELOPMENT INC.**

**and**

**THOMAS GRADEK**

**Mis en cause**

**and**

**SAMSON BÉLAIR/DELOITTE & TOUCHE INC.**

**Monitor**

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**MOTION FOR A THIRD ORDER EXTENDING THE STAY PERIOD  
(Sections 9 and 11 of the *Companies' Creditors Arrangement Act*  
(R.S.C. 1985, c. C-36))**

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**TO THE HONOURABLE JUDGE CLAUDE AUCLAIR OF THE SUPERIOR COURT,  
SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF  
MONTRÉAL, THE PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:**

**I. INTRODUCTION**

1. On October 15, 2014, the Honourable Jean-Yves Lalonde issued an order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act* in respect of Gradek Energy Inc and Gradek Energy Canada Inc (collectively, "**Gradek Energy**"), as appears from the Court record.

2. Pursuant to the Initial Order, Samson Bélair/Deloitte & Touche Inc. (the "**Monitor**") was appointed monitor of Gradek Energy and a stay of proceedings (the "**Stay of Proceedings**") was issued from the date of the Initial Order until November 13, 2014, and was extended on November 11, 2014 to December 19, 2014 and on December 17, 2014 to January 16, 2015 (the "**Stay Period**").
3. In addition to protecting Gradek Energy, the Stay of Proceedings also extends to the Mis en cause R H S T Development Inc. and Thomas Gradek, who are not debtors in these proceedings but who, as holders of the intellectual property rights of the Re-usable Hydrocarbon Sorbent ("**RHS**") technology, form an integral part of this restructuring effort (collectively with Gradek Energy, the "**Gradek Parties**").
4. The Gradek Parties respectfully request that this Honourable Court extend the Stay Period until January 27, 2015 for the reasons set forth below.

## II. **EXTENSION OF THE STAY OF PROCEEDINGS**

5. Since the issuance of the Initial Order, Gradek Energy has acted, and continues to act, in good faith and with due diligence.
6. Gradek Energy has made and continues to make significant efforts to stabilize its business and address the concerns of all stakeholders in accordance with its proposed course of action, which provides for:
  - (a) the completion of the development of the RHS technology so that it can be brought to the market;
  - (b) the identification and attraction of new investors; and
  - (c) the submission of a plan of arrangement acceptable to its creditors.
7. At the time of its last appearance before the Court on December 17, 2014, Gradek Energy was engaged in serious discussions to secure additional interim financing with a potential DIP lender for a DIP loan in the amount of 500 000\$, pending the resolution of two conditions, namely that (1) an appraisal of the value of Gradek Energy's assets be performed and that (2) an understanding be reached with Dundee Corporation in respect of its expected position at the time of Gradek Energy's emergence from this CCAA process;
8. The first condition was met to the satisfaction of the potential DIP lender on January 5, 2015;
9. In respect of the second condition, Gradek Energy has actively engaged Dundee Corporation. The parties are currently negotiating and expect that a decision as to whether an agreement can be reached will be made in the upcoming days;
10. The potential DIP Lender has further indicated that it will require a few days to make the DIP loan available once the two aforementioned preconditions are met;
11. Meanwhile, Gradek Energy has continued negotiating with a major environmental solution provider (the "**ESP**") in an effort to bring the RHS technology to market. The ESP has indicated that it is ready to enter into a letter of interest (the "**LOI**")

but suggested that the LOI would be more significant if it were entered into after the completion of the third batch of tests that were announced in the last motion for an extension of the Stay Period;

12. The ESP's commitment to work on the financial modeling in respect of its future arrangement with Gradek Energy further attests of the process moving forward;
13. The extension of the Stay Period is necessary in order to provide Gradek Energy with an adequate period of time to finalize an agreement with the new DIP lender and Dundee Corporation. It is anticipated that the requested extension of the Stay Period to January 27, 2015 will afford Gradek Energy an adequate period of time to make material progress towards these objectives;
14. Gradek Energy is of the view that no creditor will suffer any undue prejudice from the requested extension of the Stay Period and that the extension sought is appropriate in the present circumstances;
15. The Monitor has indicated that it agrees with Gradek Energy, on the basis of the cash flow forecast to be included in the Monitor's Fourth Report, and that it supports the present request for an extension of the Stay Period;
16. The Gradek Parties respectfully request that this Honourable Court extend the Stay Period to January 27, 2015;

**WHEREFORE, MAY THIS COURT:**

**GRANT** the present Motion;

**EXTEND** the Stay Period to January 27, 2015;

**DECLARE** that the notices given of the presentation of the present Motion are proper and sufficient;

**ORDER** the provisional execution of the Order to be rendered notwithstanding any appeal and without the necessity of furnishing any security.

**WITHOUT COSTS**, save and except in case of contestation.

MONTREAL, January 15, 2015



**MCCARTHY TÉTRAULT LLP**

Attorneys for the Petitioners, Gradek Energy Inc. &  
Gradek Energy Canada Inc.

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**AFFIDAVIT**

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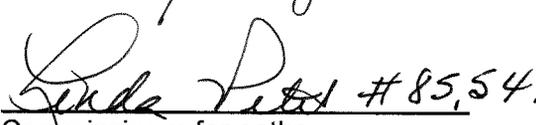
I, the undersigned, STEPHAN GRADEK, having a place of business at 162 blvd. Brunswick, Pointe-Claire, Québec, H9R 5P9, solemnly declare the following:

1. I am the Vice President and Chief Operating Officer of Gradek Energy;
2. All the facts alleged in the *Motion for a Third Order Extending the Stay Period* under sections 9 and 11 of the *Companies' Creditors Arrangement Act* are true.

AND I HAVE SIGNED

  
\_\_\_\_\_  
STEPHAN GRADEK

Solemnly Declared before me in  
Montreal, on January 15, 2015

  
\_\_\_\_\_  
Commissioner for oaths  
for the Province of Quebec



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**NOTICE OF PRESENTATION**

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TO: the Service List

Take notice that the present *Motion for a Third Order Extending the Stay Period* under sections 9 and 11 of the *Companies' Creditors Arrangement Act* will be presented before Justice Claude Auclair of the Superior Court, sitting in bankruptcy and insolvency matters at the Montréal courthouse, located at 1 Notre-Dame St. W., Montréal, Quebec, H2Y 1B6, on January 16, 2015, in room 16.12 at 9:00 a.m. or so soon thereafter as counsel may be heard.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTRÉAL, January 15, 2015



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**MCCARTHY TÉTRAULT LLP**

Attorneys for the Petitioners, Gradek Energy Inc. &  
Gradek Energy Canada Inc.

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**ORIGINAL**

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M<sup>e</sup> Alain Tardif / 514-397-4274 / #211821-446837

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**McCarthy Tétrault LLP**

Avocats • Agents de brevets et marques de commerce  
Barristers & Solicitors • Patent & Trade-mark Agents

Suite 2500  
1000 De La Gauchetière Street West  
Montréal (Québec) H3B 0A2  
Tel.: 514 397-4100  
Fax: 514 875-6246